

88-512

Supreme Court, U.S.

FILED

APR 21 1989

JOSEPH E. SPANGL, JR.
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1988

THE STATE OF MICHIGAN
Petitioner,

vs.

TYRIS LEMONT HARVEY
Respondent.

ON WRIT OF CERTIORARI
TO THE MICHIGAN COURT OF APPEALS

JOINT APPENDIX

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PETITION FOR CERTIORARI FILED
September 21, 1988
CERTIORARI GRANTED, February 21, 1989

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DOCKET ENTRIES

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- 8/15/86: Motion for discovery of medical
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- 9/25/86: Defendant sentenced, 6-10 years
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Supreme Court, three justices
dissenting

TESTIMONY OF TYRIS LEMONT HARVEY

called by the Defense, sworn by the Clerk, testified:

DIRECT EXAMINATION

BY MR. WELTON:

Q State your name for the record, please.

A Tyris Lemont Harvey.

Q And, Mr. Harvey, you heard the testimony of Audrey Sharp?

A Yes.

Q On June 11 of 1986, did you have occasion to see Audrey Sharp?

A What you mean, like an appointment or something?

Q Well, did you see her at all --

A Yes.

Q -- on that particular day?

A Yes.

Q How is it that you had occasion to see her?

A I was walking through the alley by her house and seen her standing on the porch. So I went up there.

Q You saw her standing on her porch?

A Yes.

Q What time of day was this?

A It was about nine, nine at night.

Q Nine at night?

A Uh-hum.

Q Did there come a time you went to her house?

A Yes.

Q What time was that?

A I just -- when I just went over there. That's when I went over there.

Q This was nine o'clock?

A Yes.

Q It wasn't 2:30 in the morning?

A No.

Q Were you alone?

A Yes.

Q Were you -- did you approach her house?

A Yes.

Q Okay. Was she still on the porch when you approached?

A Yes.

Q Did you walk upon the porch?

A Yes.

Q Did you say anything to her?

A I asked her how she was doing. She said, "All right." And I asked her, "Did she want to smoke some caine?" She said, "Yes".

Q Did you say anything else to her?

A Not until after we got inside.

Q When did you go inside?

A After I asked her did she want to smoke some caine. She said, "Yes", and then she opened the door and then we went in.

Q Okay. Then what did you do next?

A We started smoking and then I asked her did she want to turn some favors and she said yes. So, by that time her sister came in. I don't know if it's her sister. She told me it was her sister. She came in. So she wanted to smoke some, too.

So, I said, "why don't we go get some more." So her sister took me around to the crack house to get some more caine. We bought some more and we came back. By the time we got back it was this other dude sitting there. So he had some caine, too. So we were all sitting there smoking some caine. But, he came there for her sister and then they left.

So me and Audrey was sitting there and I asked her, I said, "What's up? You going to turn that favor?" And she was, "I ain't doing nothing."

And then I said, "I already done paid you." Then she said, "Well, you got to leave." So, I told her I wasn't going nowhere until after she paid me some of my money back or some caine or something.

So, she walked over to the stove and she grabbed a fork and she told me to get out. So, I told her I wasn't going to leave. So, she cut me on my hand right here with the fork. So I hit her in her eye. So, by then we just got to tussling and stuff.

So then I tried to grab the fork from her and I turned her around like this and tried to pull it with the other hand like this and she started biting me on my arm. So, I bit her on her back. So, I broke the fork aloose from her and threw her and she went running into the living room. So, I came in there behind her.

So then she started talking about some dude was upstairs or something and I better leave or something. So then I said, "I wasn't going nowhere until you paid me."

So, by that time, she just took off her pants and got on the couch. So then I went over there and she started trying to jack me off. But, I was so high I couldn't get hard or nothing. So then she started talking all crazy and stuff talking about, "well, why don't you just get up and leave or something."

So, she was like trying to push me, so I hit her again. So I hit her again. Then she started screaming talking about whoever he was upstairs, come on down or something. So, I got up and told her, "Just let me out." So she opened the door and I left.

Q This person that you referred to as her sister, how -- why did you feel that it was her sister?

A Because Audrey told me it was her sister.

Q When did she tell you that?

A A couple times. See, when I first met her, I met her over at the caine house where everybody be smoking at and they came in together. And she said this was her sister. She introduced her. I forgot what she said her name was though.

Q So, was this person who you thought was her sister, was she on foot when she came or did you know?

A Yes, she came in a car. She had a black Volkswagon.

Q You say you and she left together?

A Yes, we went -- after she came -- see, I had like about one more route left, so we went to go get some more. So

she said she would drive me around to the crack house. So, I said, "All right". And, she drove me around there.

Q How long were you gone?

A About, anywhere between five and ten minutes.

Q So, wherever you went was very close to her house?

A Yes, it was a few blocks.

Q So, you are saying that she agreed to exchange sexual favor with you if you were to buy this cocaine so they could get high or you and she could get high?

A Yes.

Q Had you ever gotten high with her before off of this cocaine?

A Yes.

Q And where did that take place?

A At the crack house.

Q Was it ever at her house?

A I don't -- yes, I got high with her before at her house one time.

Q Was anybody there besides you and she?

A Me, her, Ruby and some other dude.

Q Is Ruby someone you had brought with you or was there when you got here or what?

A No. Ruby is her next door neighbor.

Q Now, you said this was at nine o'clock and not 2:30 in the morning, is that right?

A Yes.

Q Did you use her phone while you were there?

A I don't know if she's got a phone. I never seen a phone over to her house.

Q So then you did not use a phone?

A No.

Q How long a period of time were you actually there?

A I will say from about nine o'clock til about something after ten, about an hour, hour and a half.

Q Is that total, the complete time that you left and came back?

A Yes, that is total.

Q So, you say you were there until about 10:30 at the latest?

A Yes.

Q Now, did you recall seeing some garden shears at the house?

A I don't recall the garden shears.

Q So, did you ever have possession of those shears?

A No, I didn't ever have possession of no shears.

Q You don't know if they were there, is that your testimony?

A Yes.

Q The barbecue fork, when was the first time you saw that?

A When she picked it up off the stove.

Q Okay. Why did she pick it up off the stove?

A Trying to make me leave with it.

Q Did she lock a gate behind you when you came in?

A Yes.

Q Is that a steel gate with a key you have to use from the top?

A Yes, Armour Guard.

Q Okay. Once you got in her house, you asked her to get high, is that your testimony? You asked her if she wanted to smoke some caine, is that it?

A Yes.

Q Does that mean "Get high"?

A Yes.

Q And you are saying she agreed to do that?

A Yes.

Q All right. Now, when was it that she agreed to exchange the sexual favors with you?

A Right after I asked her did she want to get high and I asked her did she want to smoke something for some favors. She said yes.

Q Was this before you left to go get additional cocaine or was this afterwards?

A This was before.

Q Before you left the first time?

A Yes.

Q Now, where were you and she when you were having this conversation with her about going to get the cocaine and exchanging sexual favors?

A In her kitchen.

Q You were in the kitchen?

A Yes.

Q Were you face-to-face sitting down or what?

A Yes.

Q Well, sitting down or standing up?

A She was like -- she got one of those tables. I was like on this side and she was like right here, like kind of facing me diagonally.

Q So, were you sitting down?

A Yes.

Q So when did she get the fork?

A When she told me to leave. She told me I had to leave and I told her I wasn't. She just got up, went over to the stove and got it.

Q What did you do when she got the fork?

A I stood up. I told her I wasn't going nowhere, and she started doing like this in my face, told me I had to go and she cut me with it. So then I hit her.

Q Where did he hit her?

A I hit her in her eye.

Q With your fist?

A Yes.

Q Did she fall down?

A No, she didn't fall. I didn't hit her that hard.

Q Well, did she make any noise, sounds of any kind?

A No.

Q When you hit her what did she do next?

A She came back at me with the fork. So, I grabbed her hand and we got to tussling. So, I was trying to get the fork from her and I turned her around trying to pull the fork. And she started biting me so I bit her back.

Q Where did she bite you; where did she bite you?

A She bit me on my arm right here.

Q Your right or left arm or what?

A Right arm.

Q And she -- what did you do after she bit you?

A I bit her back.

Q Where did you bite her?

A On her back.

Q Okay. After you bit her on her back, what was the next thing that took place?

A I bit her and then, I had got the fork from her and I threw her like that and then I pushed her away. And then she ran for the living room.

Q Did you follow her into the living room?

A Yes, I followed her in there.

Q What exactly happened in the living room?

A Then she kept talking about I had to leave and I told her I wasn't going to leave until she paid me. So then she got on the couch. She pulled her pants down and got on the couch. So I went over by the side. I kneeled down. I had pulled my pants down. She started trying to jack me off.

Q How was she trying to do this?

A She was pulling on my penis like this.

Q With her hand?

A Yes.

Q And what happened next?

A So then, I couldn't get hard because I was real high and stuff. And she got all mad and stuff. And she kept -- she started back telling me, "Why don't I just leave." Then that's when she started calling for that dude.

Q What was she doing, screaming out a name, someone to come? What was she saying?

A Yes, she was screaming and pushing on me and stuff, talking about -- and then she said "Johnny." Or something like "Johnny, come on down," something because, you know -- hollering for somebody.

Q No one came, is that correct, after she hollered for this Johnny, this person?

A No, didn't no one come.

Q What happened next?

A I told her, "Just let me out." And she went over to the door and let me out.

Q What -- did she have to go get some keys to let you out?

A No, the keys were sitting right there with her. She always keep them with her. She just went over there and unlocked the door.

Q Was the keys on her person or laying on a table or what?

A I think they were laying on the coffee table.

Q So, she picked up the keys, went to the door, opened the gate?

A Yes.

Q And let you out?

A Yes.

Q So did you and she at any time ever have any sexual intercourse?

A No.

Q Did you at any time try to force her to have any?

A No.

Q What she did do, based on your testimony, did she do voluntarily?

A Yes.

Q Did you ever flip her on the ground, on the floor of the house?

A No, I never flipped her.

Q Were you ever on the landing into the basement?

A No.

Q But you were in the kitchen?

A Yes.

Q And it was some tussling going on in the kitchen?

A Yes.

Q You ended up out in the living room?

A Yes.

Q You never went toward the basement or in the basement area of the landing?

A No.

Q Now, you said she took -- in the living room she took her pants off. Did she take them off, all the way off? What did she do?

A She took them off.

Q She took them off? They weren't on one leg or anything like that?

A Not that I recall. I think she just took them off.

Q Did you take your pants off?

A Mines, I pulled them down.

Q Did you leave after she asked you to leave and she opened the gate? Did you just leave out of the home at that time?

A When she opened the gate --

Q The gate.

A -- yes, I left. I went home.

Q Did you see her dress herself again before she let you out? Did she redress?

A Yes, I think she put her pants back on, yes.

Q So, you waited for her to put her pants back on?

A Yes.

Q And to get the keys to let you out?

A Yes.

Q Nothing took place during that time?

A No.

Q Have you ever been convicted of any felony?

A No.

Q Is today the first time you ever seen those shears that you see sitting on the table?

A Yes.

MR. WELTON: I have no further questions.

CROSS-EXAMINATION

BY MS. HICKEY:

Q Mr. Harvey, you gave a statement to the police in this matter on July 2, did you not?

A Yes.

Q And that would have been to this Officer, this investigator here, correct?

A Yes.

Q And, she wrote that statement down as she asked you a question and you gave her an answer, correct?

A Yes.

Q After she got done writing down what she had, she would show you -- she would let you read it, didn't she?

A Yes.

Q And is that your signature on the first page of this statement, here at the bottom?

A Yes, after she changed some of it.

Q Okay. We will get to that in a second.

Is this your signature? Well, you put an X here, indicating your signature at the bottom of the second page?

A No.

Q And then you indicated that you refused to sign the rest after the first page because you wanted a lawyer?

A She had wrote some stuff I didn't like. So, I just said I wasn't going to sign nothing.

Q So, what had she written that you didn't like, Mr. Harvey?

A I can't remember exact words, but it was just something that wasn't pertaining to what happened.

Q Okay. But, the first page definitely is right; right? And you signed the bottom of that?

A Yes, the one that I signed.

Q Okay. And, she gave you the chance to read that before you signed the first page, correct?

A Yes.

Q Okay. So, if anything was wrong at that point, you could have corrected it or decided not to sign it?

A Yes.

Q Do you remember being asked the question, "Where were you -- or excuse me -- were you there on June 11, 1986 at 2:30 a.m.?"

And your response was, "I don't know the date?"

A Yes.

Q You didn't tell her at that point that you had been there at nine o'clock in the morning -- at nine o'clock at night instead of 2:30, did you?

A No, I didn't.

Q And, do you remember being asked the question, "What hapened the day you were there," and you gave the answer, "I went with her sister and we were smoking coke and got high, me and her -- me and her were supposed to do something but I had spent all my money."

"Her sister left and she started getting all crazy and stuff, pushing on me to get out. I told her to give me my money, that money I spent on her doing coke." Do you remember telling Investigator Wilkinson that?

A Could you say that again?

Q Okay. Do you remember telling Investigator Wilkinson, "I went with her sister and was smoking coke and got high. Me and her were supposed to do something but I had spent all of my money. Her sister left and she started getting all crazy and stuff,

pushing on me to get out. I told her to give me my money back, money that I had spent on her for the coke."

Do you remember telling Investigator Wilinon that?

A Not those exact words.

Q You do remember signing the back of that?

A Yes.

Q Okay. When you say, "Not the exact words," though, that was the gist of what you told her that day?

A Something of that sort.

Q This was on July 2 which would have been about three weeks after the incident allegedly happened, correct?

A Yes.

Q At that time, you were telling Investigator Wilkinson as much as you could because you felt you were being set up or you were being unjustly accused, correct?

A Yes.

Q And you wanted to give the Officer as much information as possible so she would know you were not guilty?

A Yes.

Q And you didn't mention to her at that time that you and the sister left the house ever to get any more crack, did you.

A Yes, I did.

Q And, okay. And you -- did you mention to her that there was this other person involved, this other Black male?

A Yes.

Q And, all right. But, you still signed this, eventhough she didn't include that information?

A That was on the paper that everything I said was on the paper that I signed.

Q So, this isn't your signature, is that what you are saying?

A Yes, that is my signature.

Q Then this is the paper, isn't it?

A Could I see that?

(Document presented to the witness.)

A (Continued): Yes, that's my signature.

Q Okay. So, you didn't tell her about this other person and you didn't tell her that you had left the house with the sister to go buy more crack, isn't that correct?

A Yes, I told her that.

Q She just didn't write it down?

A Probably so.

Q And, you signed it anyway?

A Yes.

Q Now, okay. How long -- how many times would you say you had seen Ms. Sharp before this incident allegedly happened?

A I wouldn't know the number, but it was a few times. I seen her a lot of times.

Q And, so the night that this incident happened, at supposedly nine o'clock, you probably saw her out on the porch and you said something like, "Hey, Audrey, how is it going? I got some coke. You want to do some with me?"

A Yes.

Q And you knew her name at that point, correct?

A Yes.

Q Do you remember being asked by Investigator Wilkinson on July 2nd, "Do you know Audrey Sharp?"

And, you gave the answer, "No, I might know her face but not her name."

A No.

Q You don't remember her saying that?

A Uh-uh.

Q So even though that's on the first page, you signed off on that, even though that's not true?

A Yes.

Q Okay. How much would you say was the value of the crack that you had when you came to the house that night?

A How much would I say was the value?

Q How much crack did you have, how much worth?

A I had about -- when I first got there, I had about \$30 worth.

Q About \$30 worth?

A Yes.

Q You gave a statement in this matter last week, too, didn't you?

A Yes.

Q And that was to a different woman, correct?

A Yes.

Q And you gave her that statement because, again, you wanted to give her as much information as you could because you feel you are not guilty of this crime, correct?

A Yes.

Q That statement -- I am going to hand this to you.

MR. WELTON: Your Honor, before we get into that statement, it might be some preliminary matters we might have to talk about regarding that second statement.

MS. HICKEY: Why? Your Honor, I will stipulate it was not subject to proper Miranda and, therefore, I could not have used it in my case in chief.

I talked to the woman that took the statement and my indication is that defendant indicated that he wanted to give a statement but he

didn't know if he should talk to his lawyer. She told him he didn't need to talk to his lawyer, his lawyer was going to get a copy of the statement anyway.

That's why I did not choose to use it in my case in chief. And, I did advise Counsel of that.

There is no indication that it was involuntary and under Harris vs. New York, I may, therefore, use it to impeach, even if improper Miranda is existing in this case.

THE COURT: Do you have objections?

MR. WELTON: Yes, I do have objections, if she is going to use it, as long as she is going to use it not for substantive evidence. If she is going to use it for the proper purpose, well, I want to know how she is going to use it for the proper purpose.

MS. HICKEY: I am only using it for impeachment.

THE COURT: You may proceed in that fashion.

MS. HICKEY: Thank you.

Q (By Ms. Hickey, continuing): I am going to hand you this and ask you if this looks familiar to you?

A Yes.

Q Is that the statement that you gave last week on September 9?

A Yes.

Q That was only six days ago, correct?

A Uh-hum, yes.

Q And, did you sign each of those pages somewhere, each of the four pages on that?

A Yes.

Q Did you do that after you read it?

A Yes.

Q And, had any opportunity to make any changes that you wanted to make?

A Yes.

Q Okay. Do you remember being asked the question -- the question originally, "Why did you go there?"

"To smoke some cocaine with her," was your answer.

"Question: Who had the cocaine?"

"Answer: I did."

"Question: How much did you have?"

"Answer: \$80 or more."

Do you remember giving that answer?

A Yes.

Q Now, how much did you go out and buy?

A About \$50 worth.

Q Okay. What is the sister's name, do you know?

A No.

Q But you had met her several times in the past?

A Yes, I met her a few times.

Q And what was this other male's name that came back with you?

A I don't know his name either. He didn't come back with me.

Q Okay. When -- he was already at the house when you got back, was your testimony?

A Yes.

Q How long would you say you were gone to this crack house?

A Five or ten minutes.

Q And, to your knowledge, what, did he drive over there? Was there another car in front of the house or something that hadn't been there when you got back?

A When I got back there he was there.

Q When you got there the first time, he was there?

A No, the second time when we came back, me and the other lady.

Q You don't have any idea what his name is?

A No.

Q Do you remember telling the Officer last week that you think his name is Michael?

A Yes, that's what I thought his name was.

Q Where have you seen him before?

A I seen him hanging around in the neighborhood.

Q Now, it's your testimony that you had -- that she cut you with the barbecue fork and bit you on the hand?

A Yes.

Q Did you get any medical treatment for those injuries?

A No, because it was just a scratch and a little bruise.

Q So, she didn't bite you that hard?

A It bit -- it was pretty hard but nothing, really. I didn't go to the doctor or nothing for it.

Q Earlier in your direct testimony you said that he -- this other person you think might be Michael, came for his sister (sic)?

A No, I didn't.

Q You said something about "his sister"?

A I said her sister -- he came and he left with her sister.

Q He was already there when you got there and then he left with her sister after you smoked the rest of this crack?

A Yes.

Q Are you in the habit of just sharing your \$80 worth of crack with anybody?

A No.

Q So, but in this case you shared it with a man you had never met, whose name you don't know, a woman that turns out not to have been the victim's sister and the victim and she was the only one that was going to give you anything for it?

A He had some caine, too, and he was smoking his. So we were like exchanging.

Q Well, why did you give it to her sister then? I don't understand?

A Because she had drove me over there to get it. So, you know, I just give her a little something to smoke, too.

Q You didn't tell the investigator last week that he had bought his own cocaine, did you?

A Did I tell the investigator last week? Yes, I told him.

Q You did?

A Yes.

Q So, if it's not in the statement, they just left it out?

A Yes.

Q But you did read it before you signed it?

A Yes.

Q Where did you go to get more crack?

A Couple blocks.

Q Where to?

A Mecca.

Q And what?

A Schaefer.

Q Is that house still there?

A No, it's burned down.

Q When did it get burned down?

A Few days after this incident.

Q Did you -- so you spent \$80 on crack that night?

A Yes.

Q Your own money. How do you make your money for buying your crack?

A My uncle, he do landscaping. I either help him or just do some odd things around the neighborhood.

Q Did you tell the police Officer, Investigator Wilkinson that when she asked you if you were employed when you gave your first statement?

A No, I didn't

Q Okay. So, all right. How often do you do that much crack?

A Every now and then, I guess.

Q I'm sorry. I can't hear you.

A That's the most I had done with Audrey. Sometimes I get a twenty, every now and then.

Q So, it only takes you about, well, it took the four of you eventually, under an hour and a half to do \$80 worth of crack?

A Yes.

Q What do you like when you have been smoking cocaine? What happens to you?

A I just get high.

Q Well, it's obviously not the only reaction because you said it makes you impotent, at least it did on this occasion. What else happens to you?

A Nothing else.

Q No emotional changes at all?

A Not that I know of.

Q If you were that high that night, how do you know that what you are telling us you really remember that well?

A I was high but I remember.

Q You know what I don't understand, maybe you can help me out. Why would Ms. Sharp make this whole story up about you?

MR. WELTON: Objection, your Honor.

MS HICKEY: If he knows.

THE COURT: If you know. The objection is overruled.

THE WITNESS: I wouldn't know.

Q (By Ms. Hickey, continuing): You ever had any problems with her in the past?

A No.

Q Any bad blood?

A No.

Q No problems with her sister?

A No.

Q The biting that took place between the two of you, that happened before or after she had pulled down her pants?

A Before.

Q Okay. So, it's your testimony that you guys were there busy biting each other and she just goes out in the living room disrobes and lays down on the couch?

A No. It happened in sort of that way.

Q Well, okay. What sort of didn't happen that way? You said it happened sort of that way.

A Yes, all right. After the biting incident, I got the fork from her. She went to the living room and I came in there.

So, then I told her I still wasn't leaving until I got paid.

Q you got the fork from her?

A Yes, I pulled it out.

Q Did you get it away from her?

A Yes, I pulled it.

Q You followed her into the living room with the fork?

A No.

Q What did you do with it?

A I threw it on the floor.

Q Did you mention that to either of the Officers you talked to?

A Not that I know of.

Q Didn't you think that was kind of an important point?

A Not -- didn't nobody ask me that question. i would have answered it.

Q Okay, I just wanted to make sure I am right about this. Looking at your second statement, the one you say is accurate, isn't it true that this statement, there's a question that's on the -- the last question on the first page. Your answer begins on the bottom of the first page and it's one long continuous paragraph, almost all the way through the second page?

A Yes.

Q And that was just you telling your story about what happened, right?

A Uh-hum.

Q So, you got the fork away. You bit her on the back; she has bitten you on the hand?

A Yes.

Q You get the fork away from her and you just dropped it on the floor?

A No. When I like -- when I was pulling it from her, it just went like that.

Q And, were you in the kitchen or in the living room then?

A The kitchen.

Q So, then she's not armed and you are not armed?

A Yes.

Q How many times did you hit her at that point?

A I didn't hit her then. Oh, before that"

Q Yes. Well, before you pulled the fork out of her hand?

A I would say once, probably twice.

Q And both times in the face?

A Yes.

Q How many times did you hit her in the side?

A I didn't hit her in her side.

Q Okay. So, you punched her in the face probably once or twice; she doesn't have any weapon, and you don't have any weapon. And then you have bitten her in the back and she's bitten you in the hand. And then she just walked into the living room and lays down and decides to have sex with you?

A No, she ran into the living room. I came in behind her. She had told me to leave and I told her I wasn't leaving until I got paid. And then she just took her pants off.

Q Okay. So, you are both in the living room, both of your pants are down, and she tries to help you get an erection and it doesn't work?

A Yes.

Q And then, she starts screaming?

A She got all mad and told me, "Why don't I just leave."

Q And you didn't want to leave right away?

A Yes.

Q So, why did you suddenly decide to leave? I mean, if you weren't going to be able to do anything --

A Because then she started screaming for that dude and just went berserk or something. So I just said, "Forget it, I will just leave."

Q But now you said she still had the fork in her hand when she let you out of the house?

A No, I didn't.

Q Okay. I misunderstood you. She just then got up and got her keys and went and let you out of the house?

A Yes.

Q Do you remember telling -- strike that.

She did say that there was a man upstairs?

A Yes.

Q And she said something about, you think you remember the name "Johnny"?

A Yes.

Q Do you remember how long after you first got there that she said anything like that, referred to this other person in the house?

A Not until that incident. Not until after she started call him.

Q Okay. Where have you seen this Michael person before?

A Seen him hanging around in the neighborhood.

Q How long - how recently had you seen him before this incident happened?

A All right, he be hanging right by the crack house. He be up there everyday.

Q Is that the crack house that burned down?

A Yes.

Q Where did he hang out after that? It burned down a couple days after the incident?

A Yes, I seen him one night, when I went over there it was burned down. He was standing by the brick wall.

Q Okay. So, how many weeks after the incident would you say it was that you saw him last?

A About one week I seen him up at the store, seen him up at the store.

Q Okay. And, when was it that you knew that there was a warrant out for you, for this crime or that the police wanted to talk to you about this crime?

A I didn't until they came and got me.

MS. HICKEY: I have nothing further.

REDIRECT EXAMINATION

BY MR. WELTON:

Q Everything that you testified to today, Mr. Harvey, did you relate that to the police officers while you were being interrogated?

A What you talking about, last week on the 9th"?

Q Well, you have been interviewed at least twice, isn't that true?

A Yes.

Q You made at least two statements. One statement you signed only the first page because you didn't agree with some of the facts on some of the other pages?

A Yes.

Q And it was another occasion, not -- well, recently, is that correct?

A Yes.

Q How long ago was that?

A That was last week on the 9th, Tuesday.

Q Now, between the two of those statements that you gave the police, was that the investigator sitting here that you gave both times?

A No, just the first time.

Q The first time?

A Yes.

Q Do you know who it was the second time you talked to?

A I don't remember the name but I remember her face.

Q It was a female?

A Yes.

Q All right. Between the two of those statements, what you did sign, you testified to that today, is that correct?

A Yes.

Q There are some things that are not in those statements, that you have also testified to today, isn't that true?

A Everything in the second statement -- but the first statement. I just didn't tell the whole story.

Q But everything in the second statement, that you testified to today is what you told the officer?

A Yes.

Q At that time?

A The second officer.

Q The second officer. Now, did your story differ in any way from what you told the officer the second time than what you testified to today in Court? Other than some facts that are not in here?

A No.

Q Did it differ any from the first statement?

MS. HICKEY: Your Honor, I think I am going to have to object --

THE WITNESS: Sort of.

MS. HICKEY: -- I think, at least the way the question is phrased, that's a question for you to decide, whether it's different at all. He can't -- that's a question ultimately for the Trier of Fact.

THE COURT: All right. The objection is sustained.

MS. HICKEY: Thank you.

Q (By Mr. Welton, continuing): Anything you have said so far in this courtroom or that you have given in terms of statements to the police, has any of that been untrue?

A Not as I can recall.

MR. WELTON: No further questions.

MS. HICKEY: No recross.